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CH. 29 LAND TITLE REGISTRATION

CHAPTER 29
LAND TITLE REGISTRATION

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§ 29206. Jurisdiction of Island Court Confirmed: Validity of Prior Decrees.

§ 29101. Titles to Real Estate.

A system for registering titles to real estate is hereby established. This enactment may be cited as the *Land Title Registration Law*.

SOURCE: CC §1157.

NOTE: For Purpose: see *Wells v. Lizama* (1968), 396 F.2d. 877.

§ 29102. Registrar of Titles.

The Director of Land Management shall be ex officio registrar of titles and shall have and exercise all of the duties, powers and functions of said office. He is authorized to designate one or more employees of the Department of Land Management as deputy registrars of titles.

SOURCE: CC §1157.1.

§ 29103. Deputies May Perform Duties of Registrar.

Deputies of the registrar of titles may perform any and all duties of the registrar, in the name of the registrar, and the acts of such deputies shall be held to be the acts of the registrar.

SOURCE: CC §1157.2.

§ 29104. Deputies Prohibited From Practicing Law.

Deputy registrars are prohibited from practicing law, or acting as attorneys or counselors at law, or having as a partner a lawyer or anyone who acts as such, or from acting as searchers of title under this Law.

SOURCE: CC §1157.3.

§ 29105. Land Brought Under the Law by Filing Petition: Contents, etc.

All land may be brought under the operation of this Law by the owner or owners of any estate or interest therein, whether legal or equitable (other than an individual share or an easement) by filing with the clerk of the court his or her or their verified petition to the Superior Court of Guam, which petition shall set forth the following facts, to wit:

Contents of Petition. The full name, occupation, residence, and post office address of the applicant or applicants, and where any applicant appears by any representative because of any disability, also the full name, occupation, residence, and post office address of the person so representing

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the applicant and the reason for his so acting; if the application is by a corporation, its name, when and where incorporated, its principal place of business, and the names and post office addresses of its president and secretary, and if a foreign corporation, the name and address of the resident agent shall be included in addition to the other requirements; whether or not the applicant is married, and if married, the full name and residence of the husband or wife; and if unmarried, whether he or she has been married, and if so, how the marriage relation terminated, and if the marriage relation terminated by annulment or divorce, where and by what court; that each of the applicants is not less than eighteen (18) years of age and free from any disability, or if a minor or under disability his age and nature of such disability, and if a guardian has been appointed the name and address of the guardian and when and by what court appointed, a description of the land, the value at which the land and permanent improvements, if any, were assessed on the last assessment for taxation.

If the application is by more than one (1) person, any one of whom claims titles in severalty to any part of the land described in the petition, the particular part of the land to which petitioner severally claims title; a statement of the estate or interest which each applicant has or claims and whether or not the same is community property or is subject to a homestead or to any easement, lien or encumbrance and if so the name and the post office address, if known, of each holder thereof, the nature and the amount of the same, and if recorded, the book and page of the record; a statement of whether or not the land is occupied and if so, the full name and post office address of each occupant, and what interest he has or claims; a statement describing the claim of any other person who has any estate or remainder, reversion or expectancy, with the names and post office addresses, if known, of every such person, together with the names and post office addresses of all the owners of the adjoining lands, so far as the same can be ascertained upon diligent inquiry. If the application is by a husband or wife and the property is community property or is subject to a homestead, both spouses must join in the application; persons who collectively claim to own the entire legal estate in fee simple to the whole or any part of the land may join in the petition; a corporation may petition by its duly authorized agent; the estate of a deceased person by the administrator or executor and a minor or other person under disability by his legal appointed guardian, but the person in whose behalf the application is made shall be named as applicant.

SOURCE: CC §1157.4 as amended by P.L. 14-91:1. "Island" changed to *Superior Court of Guam* by Compiler pursuant to P.L. 12-85.

§ 29106. Reference to Map or Plat, etc.

If said land is a part of a city, village, town or subdivision of which an official map is on file in the Department of Land Management and upon such map the land appears in such a manner that it can be identified thereon by reference, the application may refer to such map. In all cases where said land cannot be identified by reference to such map or where no such map is on file in the Department of Land Management a plat or plan or survey of the land made by a surveyor must accompany the application. Such survey must show the boundaries of the land its relation to adjoining lands and streets and any encroachments, if any. The court may, in any case, before decree, require a survey to be made for purpose of determining exact boundaries. If the application describes the land as bounded by a public or private way, it shall state whether or not the applicant claims any and what land within the limits of the way and whether the applicant desires to have the line of the way determined.

Where applicant has been in possession more than five years. If it appears by the petition that the applicant, either by himself or by himself and his predecessors in interest, has been in the actual, exclusive, and adverse possession of, or any part of, the land described, continuously for more than five (5) years next preceding the filing of the petition claiming to own the same in fee against the world, and that he has or that he and his predecessors in interest have paid all taxes of every kind legally levied or assessed against such property during said period, the petition must then also state the character of such possession and the applicant must prove the same to the satisfaction of the court on the hearing.

Each application must be accompanied by an abstract of title to all land which does not appear by said petition to have been adversely held as hereinabove provided; except that when the title to the land or any part of the land described has been previously determined by a final decree of a court of competent jurisdiction no abstract regarding the same need antedate such decree. When actual, exclusive, and adverse possession and payment of taxes is alleged but not proved to the satisfaction of the court on the hearing, the court may require an abstract of title to be furnished which shall then be used in the same manner as if it had been filed with the application. All abstracts herein referred to must be verified by the searcher making the same.

Upon any petition hereunder being filed, the clerk of courts shall immediately endorse thereon the exact time of its presentation and shall

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enter the same in a book kept for that purpose known as the land register docket.

SOURCE: CC §1157.5.

§ 29107. Registering of Estates Less Than Fee Simple: Estates Subject to Lien or Charge.

No mortgage, lien, charge, or lesser estate than fee simple shall be registered unless the fee simple to the same land is first registered. It shall not be an objection to bringing land under this Law, that the estate or interest of the applicant is subject to any outstanding lesser estate, mortgage, lien, or charge; but every such lesser estate, mortgage, lien, or charge shall be noted upon the certificate of title and the duplicate thereof, and the title or interest certified shall be subject only to such estates, mortgages, liens, and charges as are so noted, except as herein provided.

SOURCE: CC §1157.6.

§ 29108. Registering of Title Through Sale For Tax or Assessment.

No title derived through sale for any tax or assessment shall be entitled to be first registered unless it appears to the satisfaction of the court upon the hearing of the application that the period of redemption [as provided by §1132(a) of the Civil Code of Guam] has expired.

SOURCE: CC §1157.7.

NOTE: Subsection 1132(a) referred to above does not now exist. It does not appear in the 1953 or 1970 Eds. of the Civil Codes of Guam. There was such a subsection included in Division Second, Part IV of the U.S. Naval Government's *Civil Code of Guam (1947)* and the reference may have been inadvertently carried over from that edition.

§ 29109. Amendment of Application.

The application may be amended only by petition verified as in the case of the original. Such amendment may be ordered by the court on its own motion or upon the motion of any person interested in the proceedings.

SOURCE: CC §1157.8.

§ 29110. Notice of Lis Pendens.

The filing of the application in the office of the clerk of the court, together with the recording of a certified copy thereof in the Department of Land Management shall constitute notice to all subsequent purchasers or encumbrancers of the land described in the application.

SOURCE: CC §1157.9.

§ 29111. Examination of Abstract by Examiner of Titles.

The court shall, in its discretion, where one or more abstracts are presented with the petition, itself examine them, or refer the same as provided in § 29119 of this Law. It if shall appear to the court from an examination of the abstract or abstracts or from the report of the Examiner of Titles or from the petition where no abstracts are required, that the title to the land described in the application appears to be substantially as alleged, the court shall order notice to be given as provided in this Law.

SOURCE: CC §1157.10.

§ 29112. Notice of Petition; Service; Objection or Assent to Application.

When the court shall order notice given a notice be issued, under the seal of the court, which shall contain the name of the court, the name or names of the application, or applicants and a particular description of the land involved, which notice shall be directed to all parties appearing by the petition or the petition and abstract or by the report of the Examiner of Titles if any, to have any interest in the land or any part thereof and which notice shall contain a statement that the petition has been filed by the applicant or applicants for the registration of the title to the land described therein as provided by this Act and praying for a decree declaring the applicant or applicants to be the owner or owners in fee of such land in accordance with the prayer of said petition and which notice shall direct all whom it may concern to appear and answer said petition within ten (10) days after personal service, and that otherwise the court will grant said petition and direct registration of the title to land in accordance with this Act, and that said person or persons so served will be forever barred from disputing the same.

Service of Petition. When the notice is issued, service thereof shall be made as follows: In all cases said notice shall be published in a newspaper published in the territory of Guam, said newspaper to be designated by the court, for four (4) successive weeks; if the notice is published in a daily newspaper, publication therein once a week for four (4) successive weeks shall be sufficient. The notice appearing in a daily newspaper shall be printed in a typeface no smaller than eight (8) points. In all cases said notice shall be posted in Agana and posted in at least three (3) places in the district in which the land is located, for such length of time and at such places as may be designated by the court. All parties who have not joined in the petition or assented thereto in writing, and who appear by the petition, or petition and abstract, or report of the examiner of titles to be interested in

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the fee, all occupants named in the petition and the husband and wife of the applicant, if married, shall be personally served with a copy of the notice, attached to a copy of the petition if they reside in Guam and can, with reasonable diligence, be found and served therein. All owners of adjoining lands who have not given their written consent to the hearing of the petition and who reside in Guam and can, with reasonable diligence, be found and served therein, shall be served with a copy of said notice, without a copy of said petition, personally; provided, that for all applications filed on and after May 1, 1950, the notice as hereinbefore described need not be published in full but it shall be sufficient publication if there is published the following information: the name of the Court in which the application is filed, the name or names of the applicant or applicants, the lot number and municipality of the property to be registered, the civil case number assigned to the application, and a statement referring interested persons to the clerk of the court for further particulars and for an examination of the notice in full.

Service of Notice by Mail. As to all persons who have not joined in the petition or who have not in writing assented to the hearing thereof, who do not reside in Guam or who cannot, with reasonable diligence, be found and served therein a copy of such notice, without a copy of the petition shall, within thirty (30) days after the first publication of such notice, be sent to such party at his last known place of residence, by mail, postage prepaid and if his last known place or residence cannot be, with reasonable diligence, ascertained, then such notice shall be mailed to him in care of the clerk of the Superior Court of Guam; provided, however, that as to all such persons so to be served by mail who appear by the petition, or petition and abstract, or report of the examiner of titles to be interested in the fee, a copy of the petition shall be attached to the copy of the notice mailed to them as herein provided: provided, further that no copy of abstract, order, or map need be served with any notice.

All persons who claim an interest may appear and object to the granting of the application and if such objection is sustained the cost of the same shall be paid by the application; if not, by the person so objecting. The time for appearance shall be ten (10) days after personal service within Guam, thirty (30) days after personal service out of Guam; all person not required by this Section to be served personally shall have sixty (60) days after the first publication of such notice within which to appear.

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All persons having or claiming any interest in the land or any part thereof may assent in writing to the registration thereof, and the person thus assenting need not be named as a defendant in the registration proceeding, or, if already named as a defendant need not be served with notice therein. Such assent shall be executed and acknowledged in the manner now required by law for the execution and acknowledgment of a deed and shall be filed with the clerk of the court.

SOURCE: CC §1157.11. Reference changed from *District* to *Superior* Court pursuant to P.L. 12-85. Amended by P.L. 18-36:2.

§ 29113. Appointment of Guardian.

Upon the petition of the applicant or any person interested in the proceedings, the court shall appoint a disinterested person to act as guardian ad litem for minors and other persons under disability and for all persons not in being who may appear to have any interest in or lien upon the land.

SOURCE: CC §1157.12.

§ 29114. Lines of Public Ways: Lands Bordering Navigable Streams.

If the petition prays to have the line of any public way determined, notice shall be given to the Attorney General of Guam by service of a copy of such notice personally. If the land borders on a navigable stream or on an arm of the sea, or if it otherwise appears from the application or the proceedings that the United States of America or the government of Guam may have a claim adverse to that of the applicant, notice shall be given in the same manner to the Attorney General of Guam. The court may also cause such other or further notice of the application to be given as it may deem necessary and proper.

SOURCE: CC §1157.12.

§ 29115. Hearing of Petition.

After the notice required to be given by this Law has been given and the time for all persons to appear has expired, the court shall set the petition down for hearing upon notice to all persons who have appeared as is required in other civil actions and shall proceed to determine the title to all the land described in the petition and of all persons who may have any interest therein or in any part thereof and whether or not the title to, or any part of, the land is held in any special capacity and after due hearing shall make, give, and enter a decree confirming the title of the person found to be the owner whether he be the applicant or any other person who may, in the

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proceeding, ask to have his title registered and shall order the registration of all such land.

SOURCE: CC §1157.13.

§ 29116. Recitals in Decree: Filing of Decree: Appeals.

Every decree shall state whether or not the owner of the land directed to be registered is married or unmarried and, if married, the full name of the spouse; if the owner is under a disability, it shall state the nature of the disability and the person acting for him and the source of his authority, and if a minor, it shall state his age and in whose custody his estate then is; it shall also contain an accurate description of the land to which the court shall determine title and shall set forth the estate of the owner and also, in such a manner as to show their relative priority, all particular estates, mortgages, easements, liens, attachments, and other encumbrances, including the rights of a husband or wife, if any, to which the land or owner's estate therein is subject and may contain any other facts properly to be determined by the court. The decree shall be stated in a form convenient for transcription upon the certificate of title and any lien or other charge against the property, if recorded, shall be referred, to by book and page of the record.

Filing of decree. The decree shall be filed with the clerk and a certified copy thereof filed with the registrar, who shall thereupon issue a certificate of title to each person declared by said decree to be the owner of any parcel of land in severalty and said registrar's act in filing said decree and issuing said certificates shall have the effect of bringing said land under the operation of this Law as herein provided as of the date of filing of the petition. Said certificate shall contain a description of the property registered and shall also show the character of ownership and whether or not the land is separate or community property, and if community property the names of both husband and wife, the nature, amount, and order of the liens and encumbrances and other charges against the same and any other interest or condition which shall be found to exist by the decree.

Appeals. Any party aggrieved by such decree may appeal therefrom in the manner now or hereafter provided by law for appeals in civil actions.

SOURCE: CC §1157.14.

§ 29117. Decree in Rem: Effect.

A decree of the court ordering registration shall be in the nature of a decree in rem, shall forever quiet the title to the land therein ordered registered and shall be final and conclusive as against the rights of all

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persons, known and unknown, to assert any estate, interest, claim, lien, or demand of any kind or nature whatsoever, against the land so ordered registered or any part thereof, except only as in this Law provided.

SOURCE: CC §1157.15.

§ 29118. Decree in Proceedings to Establish Title, Partition Land, or Administer Upon Estate.

Whenever any proceedings are hereafter commenced in the Superior Court by any person or persons either for themselves or in a representative capacity, wherein it is sought to quiet, establish title to, partition land, or to administer upon any estate of a deceased person where the estate consists in whole or in part of land, any decree rendered in any such proceeding quieting or establishing the title to any land or partitioning or distributing land may order such land registered under this Law and when, the application for notice, in such proceeding, the facts required to be set forth by § 29105 and § 29106 of this Code are alleged.

SOURCE: CC §1157.16. *Island* changed to *Superior* Court pursuant to P.L. 12-85.

§ 29119. Examiner of Titles: Appointment: Qualifications: Compensation.

Upon the filing of the petition or thereafter the court may, in its discretion, appoint an Examiner of Titles to whom any abstract or abstracts may be referred for examination. Such Examiner of Titles shall be an attorney in good standing, skilled in the examination of titles. The compensation of such examiner shall be agreed upon between the applicant or other parties and the Examiner or if not agreed upon shall be fixed by the court and such compensation shall be paid by the person or persons in whose favor registration is granted as a part of the cost of the proceedings. More than one Examiner may be appointed if desired.

SOURCE: CC §1157.17.

§ 29120. Duties of Examiner of Titles: Opinion: Report.

Whenever an Examiner of Titles is appointed and any abstract is referred to him for examination, he shall proceed to examine into the title of land described in the application and shall investigate all facts pertaining to the title which shall be brought to his notice and shall file a written report with the court, together with a certificate of his opinion upon the title. The court shall not be bound by any report of such Examiner, but may required other or further proof.

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SOURCE: CC §1157.18.

§ 29121. Withdrawal of Application.

Any applicant may upon such terms as the court may impose so as to save the opposing party harmless from loss and upon payment of all fees due, withdraw his application at any time prior to the final decree and upon the written request of such applicant and the order of the court, the clerk shall return to the applicant all abstracts of titles, deeds, and other instruments, except depositions or affidavits deposited by him for the purpose of supporting his application.

SOURCE: CC §1157.19.

§ 29122. Death or Disability of Applicant: Transfer or Interest.

In case of death or any disability of the applicant, or any party to the action, the court, on motion may allow the proceeding to be continued by or against his representative or successor in interest. In case of any other transfer of interest the proceeding may be continued in the name of the original applicant, or the court may allow the person to whom the transfer is made to be substituted in the proceeding.

SOURCE: CC §1157.20.

§ 29123. Duties of Registrar Upon Filing Decree.

Immediately upon the filing with the registrar of the certified copy of the decree ordering registration, he shall proceed to register the title in accordance with the directions of the decree and issue a certificate or certificates of title in the manner therein directed and the registrar shall also immediately make an entry in book kept for that purpose showing the name of the person to whom the certificate was issued, its number, the day, hour, and minute of its issuance, the name of those persons to whom the duplicate certificate was delivered and the book and page where the original certificate is entered or recorded.

SOURCE: CC §1157.21.

§ 29124. Certificate of Title.

Every first and subsequent certificate of title shall be in duplicate and numbered consecutively and bear date the year, month, day, hour, and minute of its issue, and shall be under the hand and official seal of the registrar. One copy of said certificate shall be retained by the registrar and

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be known as the original, and the other shall be delivered to the owner, or the person acting for him and be known as the duplicate. The certificate shall state whether the owner, except in the case of a corporation, executor, administrator, assignee, or other trustee, is married or not married, and, if married, the name of the husband or wife. If the owner is a minor, it shall state his age; if under any other disability, the nature of the disability. If issued to an executor or administrator, the certificate shall show the name of the deceased testator, testatrix, or intestate; if to an assignee in insolvency, the name of the insolvent. The registrar shall note at the end of the certificate, original and duplicate, in such a manner as to show and preserve their priorities, the particulars of all estates, mortgages, liens, encumbrances, and charges to which the owner's title is subject.

SOURCE: CC §1157.22.

§ 29125. Form of Certificate.

No particular form of certificate of title is required, but the same may be, subject to such changes as the case may required, substantially in the following form:

Territory of Guam, ss:

A. B. [State occupation and residence, giving street and lot number], Territory of Guam [if administrator, give the name of the deceased; if a minor give his age; if under other disability, state its nature], married to [name of husband or wife, or if not married so state], is the owner of an estate in fee simple [or as the case may be] in the following land [insert description contained in the decree]. Subject, however, to the estates, easements, liens, encumbrances and charges hereunder noted [in case of trust, condition, or limitation, say *in trust*, or *upon condition*, or *with limitation*, as the case may be].

1. Mortgage to.....for the sum of \$.....
dated.....payableafter date, with interest
at.....percent per, interest payable
.....

2. Mechanics' lien in favor of X. Y. for \$.....
filed

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3. Assessment for improvement of.....
..... street, amount \$..... due
[Any other encumbrances or charges.]

In witness whereof, I have hereunto set my hand
and cause my official seal to be affixed, this.....day
of

SEAL

Registrar of Titles in and for the
Territory of Guam.

SOURCE: CC §1157.23.

§ 29126. Certificate Where Tenants in Common.

In all cases where two (2) or more persons are entitled as tenants in common to an estate in registered land, such persons may receive one certificate for the entirety, or each may receive a separate certificate for his undivided share.

SOURCE: CC §1157.24.

§ 29127. Issuance of Single Certificates or Several Certificates.

Upon the application of any registered owner of land held under separate certificates of title, or under one certificate, and delivering up of such certificate or certificates of title the registrar may issue to such owner a single certificate of title for the whole of such land, or several certificates each containing a portion of such land, in accordance with such application, and as far as the same may be done consistently with any regulations at the time being in force, respecting the certificates of land that may be included in one certificate of title; upon issuing of any such certificate of title said registrar shall endorse on the last previous certificate of title of such lands so delivered up a memorial, setting forth the occasion of such cancellation, and referring to the volume and folium of the new certificates of title so issued.

SOURCE: CC §1157.25.

§ 29128. Duplicate Certificates on Loss or Destruction of Original.

In the event of a duplicate certificate of title being lost, mislaid, or destroyed, the owner may apply to the registrar for a certified copy of the original certificate of registration. If the registrar is satisfied that the

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applicant is the person named in the original certificate on file in the registrar's office, and that the duplicate certificate has been lost, mislaid, or destroyed, he shall issue a certified copy of the original certificate to the applicant with the memorials and notations appearing upon the register, and shall note upon the certified copy: *Owner's certified copy*, issued in place of lost (mislaid or destroyed, as the case may be) certificate, and such certified copy shall stand in place of, and have like effect as, the missing duplicate certificate.

A certified copy of the certificate of title may be issued by the registrar for use as evidence, upon the receipt by him of an order therefor made by the court: provided, that such certified copy shall have written or stamped across the face thereof the words *for use as evidence only*. The issuance of such certified copy and the purpose thereof shall also be noted upon the original certificate by the registrar.

SOURCE: CC §1157.26.

§ 29129. Mistake: Correction.

If an owner's name or description is incorrectly registered, or becomes changed (e.g., by marriage, adoption, divorce, etc.), the registrar shall, if he is satisfied that the applicant is the same person as that appearing in the original certificate, and the production by the applicant of the duplicate certificate, issue a new certificate, with such changes as the case may require.

SOURCE: CC §1157.27.

§ 29130. Register of Titles: Entries.

The registrar shall keep a book, to be known as the *Register of Title*, wherein he shall enter all original certificates of title, in the order of their numbers, with appropriate blanks for the entry of memorials and notations allowed by this Law. Each certificate with such blanks, shall constitute a separate folium of such book. All memorials and notations that may be entered upon the register under the terms of this Law shall be entered upon the folium constituted by the last certificate of title of the land to which they relate. Each certificate or certificate of title shall be numbered the same as the folium of the register on which the registration of the title of which is a duplicate is entered.

SOURCE: CC §1157.28.

§ 29131. Receipt for Duplicate Certificate.

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Before the delivery of any duplicate certificate of title, a receipt for it shall be required to be signed by the owner. Where such receipt is signed in the presence of the registrar or a deputy, it shall be witnessed by such officer. If signed elsewhere, it shall be acknowledged before any officer authorized to take acknowledgments of deeds.

SOURCE: CC §1157.29.

§ 29132. First Registration.

In every case of first registration of land or an estate or interest therein the same shall be deemed to be registered under this Law when the registrar shall have marked upon the certificate of title in duplicate, the volume and folio of the register in which the original may be found.

SOURCE: CC §1157.30.

§ 29133. Registration When Land Transferred.

Every transfer of registered land shall be deemed to be registered under this Law when the new certificate to the transferee shall have been marked as in the case of the first registration; and all other dealings shall be considered as registered when the memorial or notation shall have been entered in the register upon the folio constituted by the existing certificate of title of the land but, for the protection of the transferee or person claiming through any transfer or dealing, the registration shall relate back and be effective as of the time of filing the deed, instrument, or notice in the registrar's office pursuant to which the transfer, memorial, or notation is made.

SOURCE: CC §1157.31

§ 29134. Action Against Registration by Person Aggrieved.

Any person feeling himself aggrieved by the action of the registrar, or by his refusal to act in any manner pertaining to the first registration of land, or any subsequent transfer, or charge upon the same, or in failing or neglecting, or refusing to file any instrument, or to enter or cancel any memorial or notation, or to do any other things required of him by this Law, may file a complaint in the Superior Court making the registrar and other persons, whose interest may be affected, parties defendant, and the court may proceed therein as in other cases, and make such order or decree as shall be according to equity and the purport of this Law. A certified copy of such order or decree shall be presented to the registrar, who shall file the same and make such entry thereof as is by this Law required.

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SOURCE: CC §1157.32. *Island* changed to *Superior* Court pursuant to P.L. 12-85.

§ 29135. Title of Registered Owner Subject to What Estates Only.

The registered owner of any estate or interest in land obtaining a registered decree under this Law shall, except in case of fraud to which he is a party, or fraud of the person through whom he claims without valuable consideration paid in good faith, hold the same subject only to such estates, mortgages, liens, charges, and interests as may be noted in the last certificate of the title in the registrar's office and free from all others except:

(a) Any subsisting lease or agreement for a lease for a period not exceed one (1) year, where there is actual occupation of the land under lease. The term *lease* shall include a verbal letting.

(b) All land embraced in the description contained in the certificate which has theretofore been legally dedicated as or declared by competent court to be a public highway.

(c) Any subsisting right of way or other easement, created within one (1) year before issue of the certificate, upon, over, or in respect of the land.

(d) Any tax or special assessment for which a sale of the land has not been had at the date of the certificate of title.

(e) Such right of action or claim as is allowed by this Law.

(f) Liens, claims, or rights arising under the laws of the United States, which the law of Guam cannot require to appear of record upon the register.

SOURCE: CC §1157.33.

NOTE: *Wells v. Lizama* (1968), 396 F.2d. 877.

§ 29136. Title Not Acquirable by Adverse Possession.

After land has been registered, no title thereto adverse or in derogation to the title of the registered owner shall be acquired by any length of possession.

SOURCE: CC §1157.34.

§ 29137. Transferee of Registered Land Not Required to Inquire or Affected With Notice.

Except in case of fraud, and except as herein otherwise provided, no person taking a transfer of registered land, or any estate or interest therein, or any charge upon the same, from the registered owner, shall be held to inquire into the circumstances under which, or the consideration for which,

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such owner or any previous registered owner was registered, or be affected with notice, actual or constructive, of any unregistered trust, lien, claim, demand, or interest; and the knowledge that any unregistered trust, lien, claim, demand, or interest is in existence shall not of itself be imputed as fraud.

SOURCE: CC §1157.35.

NOTE: Wells v. Lizama (1968), 396 F.2d. 877.

§ 29138. Remedies of Defrauded Party.

In case of fraud, any person defrauded shall have all rights and remedies that he would have had if the land were not under the provisions of this Law: provided, that nothing contained in this section shall affect the title of a registered owner who has taken bona fide for a valuable consideration or of any person bona fide claiming through or under him.

SOURCE: CC §1157.36.

§ 29139. Effect of Registration Where Deed Void or Executed by Person Under Disability.

If a deed or other instrument is registered, which is forged, or executed by a person under legal disability, such registration shall be void: provided, that the title of a registered owner, who has taken bona fide for a valuable consideration, shall not be affected by reason of his claiming title through someone, the registration of whose right or interest was void, as provided in this section.

SOURCE: CC §1157.37.

§ 29140. Unregistered Title does not Prevail Against Title of Registered Owner.

No unregistered estate, interest, power, right, claim, contract, or trust shall prevail against the title of a registered owner taking bona fide for a valuable consideration or of any person bona fide claiming through or under him.

SOURCE: CC §1157.38.

§ 29141. Certificate of Title of Registered Owner Conclusive.

In any suit for specific performance by a registered owner, against a person who may have contracted to purchase such land, and there have been no fraud or other circumstance which, according to the provisions of this Law, would affect the title of the vendor, the certificate of title to such

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registered owner shall be held in every court to be conclusive evidence that such registered owner has a good and valid title to the land, and for the estate or interest therein mentioned or described.

SOURCE: CC §1157.39.

§ 29142. Conclusiveness of Certificate of Actions of Ejectment or Partitions or Possession.

In any action or proceeding brought for ejectment, partitions, or possession of land, the certificate of title of a registered owner shall be held in every court to be conclusive evidence, except as herein otherwise provided, that such registered owner has a good and valid title to the land, and for the estate or interest therein mentioned or described, and that such registered owner is entitled to the possession of said land.

SOURCE: CC §1157.40.

§ 29143. Register of Land Conclusive as Evidence.

The register of any land, and duly certified copies thereof, shall, except as herein otherwise provided, be received in law and in equity as evidence of the facts therein stated, and as conclusive evidence that the person named therein as owner is entitled to the land for the estate or interest therein specified.

SOURCE: CC §1157.41.

§ 29144. Registrar to Carry Forward Memorial Until Cancelled.

Whenever a memorial has been entered, as permitted by this Law, the registrar shall carry the same forward upon all certificates of title until the same is cancelled in some manner authorized by this Law.

SOURCE: CC §1157.42.

§ 29145. Dealings With and Charges Upon Land Subsequent to Registration Subject to Law.

All dealings with land, or any estate or interest therein, after the same has been brought under this Law, and all liens and encumbrances and charges upon the same subsequent to the first registration thereof, shall be deemed to be subject to the terms of this Law, and to such amendments and alterations as may hereafter be made. The bringing of land under this law shall imply an agreement which shall run with the land and the same shall be subject to the terms and provisions of this Law and of the amendments and alterations thereof.

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SOURCE: CC §1157.43.

§ 29146. Limitation of Action Relating to Land.

No person shall commence any action at law or in equity for the recovery of land, or assert any interest or right in or lien or demand upon the same, or make entry thereon adversely to the title of interest certified in the certificate of title bringing the land under the operation of this Law after one (1) year following the first registration, providing said first registration is not void for any of the reasons set forth in § 29139 of this Law. It shall not be an exception to this rule that the person entitled to bring the action or make the entry is deceased, an infant, lunatic, or is under any disability, but action may be brought by such person by his next friend or guardian or by the administrator or the executor of a deceased person. It shall be the duty of the guardian, if there is any, to bring action in the name of his ward whenever it is necessary to preserve or enforce the ward's rights in registered land; provided, however, before such action shall proceed, it must be made to appear to the court that the person bringing such action or those under whom he claims, had not actual notice of the proceedings to register such lands in time to appear and file this objections or assert his claim. The provisions of this section shall in no way affect or disturb the rights of any person in said land acquired subsequent to the registration thereof, bona fide and without knowledge and for a valuable consideration.

SOURCE: CC §1157.44.

NOTE: Sauget v. Villagomez (1955), 228 F.2nd. 374.

§ 29147. Petition by Executor or Administrator to Register Land Belonging to Estate.

In all estates of deceased person the administrator or executor may file a petition to the court in the probate proceedings, praying for the registration of all land belonging to the estate, setting forth the facts required to be set forth by § 29105 and § 29106 of this Law together with a description of all land, of which the deceased died seized, which is sought to be registered.

The court, by reason of its general jurisdiction in probate, shall have power and jurisdiction to do any and all things necessary to determine the title to the land and all adverse interests therein to the same extent as the Superior Court has in independent proceedings under this Law. Upon the filing of such petition the court must direct notice of the filing of such petition to issue, as provided by this Law, and the administrator or executor shall

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publish and serve such notice upon all persons required by this Law to be served and in the manner therein specified.

Every decree of final or partial distribution of land sought to be registered wherein, upon the hearing of such petition, after said notice has been given, the court shall find the title to such land to be registered in the name of the distributee or distributees in fee simple or as their interests may appear, which decree shall be authority to the registrar to register the same and issue a certificate of registration to such distributee or distributees.

SOURCE: CC §1157.45. *Island* changed to *Superior* Court pursuant to P.L. 12-85.

§ 29148. Duty of Registrar Where Instrument Affecting Registered Land Offered for Filing.

Nothing in this Chapter shall be deemed to limit, modify or invalidate any mechanic lien or mechanic lien rights afforded under Guam's mechanic lien laws. Any instrument offered for filing with the registrar which affects registered land must have noted thereon a statement of the fact that said land is registered land, with the name of the registered owner and with the number or numbers of the certificate or certificates of the last registration thereof; otherwise, none of such instruments shall be filed, nor shall the same affect the title for the whole or any part of said land, nor will the same impart any notice to the registered owner or to any person dealing with such land.

SOURCE: CC: §1157.46. Amended by P.L. 24-323:2.

§ 29149. Transfer By Registered Owner.

A registered owner of land desiring to transfer his whole estate or interest therein, or some part or parcel thereof, or some undivided interest therein, or to convey an estate for life or years, may execute an instrument of conveyance in any form authorized bylaw for that purpose. Upon filing such instrument of the registrar's office, and surrendering to the registrar the duplicate certificate of title, the transfer shall be complete and the title so transferred shall vest in the transferee; thereupon, the registrar shall issue in duplicate and register as hereinbefore provided, a new certificate, certifying the title to the estate or interest in the land desired to be conveyed to be in the transferee, and shall note upon the original and duplicate certificates the date of the transfer, the name of the transferee, and the volume and folio in which the new certificate is registered, and shall stamp across the original and duplicate the word *cancelled*, in whole or in part, as the case may be.

SOURCE: CC §1157.47.

§ 29150. Issuance of New Certificate Where Only Part of Land Transferred.

When only part of the land described in a certificate is transferred, a new certificate shall be issued to the grantee for the part transferred to him and another one shall be issued to the grantor for the part remaining in him.

SOURCE: CC §1157.48.

§ 29151. Instrument Filed with Registrar to be Retained: Copies.

All instruments, notices, and papers required or permitted by this Law to be filed in the office of the registrar, shall be retained and kept in such office, and shall not be taken therefrom except by a subpoena duces tecum issued to and served upon the registrar by a court of record; the registrar, on demand, and proper fee being tendered therefor, shall deliver to any person a copy or copies of such an instrument, with all memoranda, memorials, and endorsements thereon, duly certified under his hand and seal of office. The registrar shall, however, upon all such copies, endorse thereon in writing across the face thereof, in red ink, *copy, no rights conveyed hereby*.

SOURCE: CC §1157.49.

§ 29152. Certified Copies of Original Instruments as Evidence.

Every copy of original instruments so certified as provided for in the last preceding section, shall be received in all cases in place of the original, and when offered in evidence shall have the same force and effect as the original instrument.

SOURCE: CC §1157.50.

§ 29153. Forms of Deeds, Mortgages, Leases, and Other Instruments.

Such forms of deeds, mortgages, leases, and other instruments as are now or may hereafter be sufficient in law for the purpose intended, may be used in conveying registered land and any estate or interest therein.

SOURCE: CC §1157.51.

§ 29154. Name, Residence, and Address of Grantee on Instrument Presented for Registration: Service of Notices and Process on Person Interested.

Every deed or other voluntary instrument which is presented for registration including the endorsement of a certificate of title, shall contain or have endorsed upon it, the full name, residence and post office address of

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the grantee or other person who acquires or claims an interest under such instrument.

Any change in the residence or post office address of such person shall be endorsed by the registrar upon the original instrument, upon receiving a written statement of such change, duly acknowledged. Notices and processes issued in relation to registered land after original registration may be served upon any person in interest by mailing them to the address so given, and shall be binding, whether he resides within or without Guam. The certificate of the clerk that he has served such notice shall be conclusive proof of such service; but the court may, in any case, order different or further service, by publication or otherwise.

SOURCE: CC §1157.52.

§ 29155. Instrument Purporting to Transfer, Lease, or Encumber Registered Land: Effect of Filing.

A deed, mortgage, lease, or other instrument purporting to convey, transfer, mortgage, lease, charge, or otherwise deal with the registered land, or any estate or interest therein, or charge upon the same, other than a will or a lease not exceeding one (1) year where the land is in the actual possession of the lessee or his assigns, shall take effect only by way of contract between the parties thereto, and as authority to register the transfer, mortgage, lease, charge, or other dealing upon compliance with the terms of this Law. On the filing of such instrument, the land, estate, interest, or charge shall become transferred, mortgaged, leased, charged, or dealt with according to the purport and terms of the deed, mortgage, lease, or other instrument. The registrar will immediately, upon the filing of such instrument, stamp or write upon the original and duplicate certificates of title the word *transferred, mortgaged, leased*, or otherwise, as the case may require with the date of filing such instrument and sign such endorsement.

SOURCE: CC §1157.53.

See *Sauget v. Villagomez* (1955), 228 F.2d. 374.

§ 29156. Registration of Transfer Where Land Sold For Tax or Assessment.

No transfer of title to land or any estate or interest therein shall be registered if the last original certificate shows that the land in such certificate described, or any part thereof has been sold for any tax or assessment, unless such transfer is intended to be subject to such tax sale, in which case it shall be so stated in the certificate issued upon such transfer

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and no transfer of any homestead which has not been theretofore released or extinguished of record shall be made unless both spouses join therein.

SOURCE: CC §1157.54.

§ 29157. Consent of Both Spouses on Transfer or Encumbrance of Registered Community Property.

Community property registered under this Law as such cannot be transferred, mortgage, encumbered, or otherwise disposed of by the registered owner thereof without the written consent of both spouses, which written consent shall be recorded and filed with the registrar.

SOURCE: CC §1157.55.

§ 29158. Affidavit or Certificate Where Transferee is a Married Person or an Executor, Administrator, Assignee, or Trustee.

The transferee shall furnish the registrar with an affidavit stating whether the transferee (except when the latter is a corporation, executor, administrator, or assignee) is married, or not married, and if married, the name of the husband or wife, and whether or not the property is community property and the fact shall be recorded on the certificate of title by the registrar before the transfer is made on the register. If the transferee be an executor or administrator, the certificate shall give the name of the deceased testator or testatrix or intestate, and if the transferee be an assignee or trustee, the name of the insolvent or bankrupt.

SOURCE: CC §1157.56.

§ 29159. Instrument Creating a Lien or Charge Upon Registered Land: Effect.

Every mortgage, lease, contract to sell, or other instrument intended to create a lien, encumbrance, or charge upon registered land, or any interest therein, shall be a charge thereon immediately upon registration thereof.

SOURCE: CC §1157.57.

§ 29160. Instruments Intended to Create Charges Upon Land: New Certificates.

On the filing in the registrar's office of an instrument intended to create a charge on registered land and upon the production of the duplicate certificate of title, whenever it appears from the original certificate of title that the person intending to create the charge has the title and right to create such charge and the person in whose favor the same is sought to be created

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is entitled by the terms of this law to have the same registered, the registrar shall enter upon the original and duplicate certificates a memorial of the purport thereof, and the date of filing the instrument, with a reference thereto by its file number, which memorial shall be signed by the registrar. The registrar shall also note upon the instrument on file the number of the certificate of title where the memorial is entered. No new certificate of title shall be entered and no memorandum shall be made upon any certificate of title by the registrar in pursuance of any deed or other voluntary instrument, unless the owner's duplicate certificate of title is presented with such instrument, except in cases expressly provided for in this Law, or upon the order of the court, for cause shown, and whenever such order is made, a memorial thereof shall be entered upon the new certificate of title and on the owner's duplicate. The production of the owner's duplicate certificate, whenever a voluntary instrument is presented for registration, shall constitute authority from the registered owner to the registrar to issue a new certificate or to make a memorial in accordance with such instrument and the new certificate or the memorial shall be binding upon the registered owner and upon all persons claiming under him in favor of every purchaser for value in good faith.

SOURCE: CC §1157.58.

§ 29161. Proceedings Where Instrument Creating Charge on Land in Duplicate, Triplicate, or More Parts.

When any mortgage, lease or other instrument creating or dealing with a charge upon registered land, or any estate or interest therein, is in duplicate, triplicate, or more parts, only one of the parts need be filed and kept in the registrar's office; but the registrar shall note upon the register whether the same is in duplicate, triplicate, or as the case may be, and shall also mark upon the others *mortgagee's duplicate*, *lessor's duplicate*, *lessee's duplicate*, or as the case may be, and note upon the same the date of filing and the volume and folio of the register where the memorial is entered, and deliver them to the parties entitled thereto.

SOURCE: CC §1157.59.

§ 29162. Authority of Registrar Where Instrument not Executed in Sufficient Number of Parts.

When an instrument is not executed in a sufficient number of parts for the convenience of the parties, the registrar may make and deliver to each of the parties entitled thereto certified copies of the instrument filed in his

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office, with the endorsements thereon, marking the same the same *mortgagee's certified copy*, *lessor's certified copy*, or as the case may be, and shall note upon the register the fact of issuing such copies. Such certified copies shall have the same force and effect and be treated as duplicates.

SOURCE: CC §1157.60.

§ 29163. Proceedings Where Holder of Charge on Land Desires to Transfer or Assign Same.

The holder of any charge upon registered land, which is otherwise legally transferable, desiring to transfer the same or any part thereof, may execute an assignment of the whole or any part thereof. The assignment of a part only must state whether the part transferred is to be given priority, to be deferred or to rank equally, with the remaining part. Upon such assignment being filed in the office of the registrar and the production of the duplicate or certified copy of the instrument creating the charge held by the assignor, the registrar shall enter in the register opposite the charge a memorial of such transfer, and how it ranks with a reference to the assignment by its file number; he shall also note upon the instrument on file in his office intended to be transferred, and upon the duplicate or certified copy thereof produced, the volume and folio where the memorial is entered, with the date of the entry. The transferee shall be entitled to have a certified copy of the instrument or transfer, with the endorsement thereon, and in case of the transfer of the entire charge, the duplicate or certified copy of the instrument creating the charge.

SOURCE: CC §1157.61.

§ 29164. Release, Discharge, or Surrender of Charge on Land or Part Thereof.

A release, discharge, or surrender of a charge, or any part thereof, to all or any part of the land charges, may be effected in the same way as above provided in the case of a transfer. In case only a part of the charge of the land is intended to be released, discharged, or surrendered, the entry shall be made accordingly; but when the whole is released, discharged, or surrendered at the same or several times, the registrar shall stamp across the instrument on file, and the memorial thereof, and the duplicate or certified copy produced, the word *cancelled*.

SOURCE: CC §1157.62.

§ 29165. Enforcement of Charges Upon Land: Foreclosure, Release or Satisfaction of Mortgages.

All charges upon registered land, or any estate or interest in the same, may be enforced as now or hereafter allowed by law, and all laws with reference to the foreclosures and release or satisfaction of mortgages shall apply to mortgages upon registered land, or any estate or interest therein, except as herein otherwise provided, and except that until notice of the pendency of any suit to enforce or foreclose such charge is filed in the registrar's office, and a memorial thereof entered on the register, the pendency of such suit shall not be notice to the registrar, or any person dealing with the land.

SOURCE: CC §1157.63.

§ 29166. Conveying a Charge, or Dealing With Land by Attorney in Fact.

Before any person can convey, charge, or otherwise deal with registered land, or any estate or interest therein, as attorney in fact for another, the deed or instrument empowering him so to act shall be filed with the registrar, and a memorial thereof entered upon the original and duplicate copies. If the attorney shall so desire, the registrar shall deliver to him a certified copy of the power of attorney, with the endorsements thereon. Revocation of a power may be registered in like manner.

SOURCE: CC §1157.64.

§ 29167. Transfer or Charge Upon Land in Trust or Upon Any Condition or Limitation.

Whenever a deed or other instrument is filed in the registrar's office for the purpose of effecting a transfer or charge upon registered land, or any estate or interest therein, and it appears from such instruments that the transfer or charge is to be in trust, or upon any condition or limitation therein expressed, the registrar shall note in the certificate, and the duplicate thereof, the words *in trust*, or *upon condition*, or *with limitations*, as the case may be, but no entry need be made of the particulars of any such trust, conditions, or limitations.

SOURCE: CC §1157.65.

§ 29168. Power of Trustee in Instrument Containing words *With Power of Sale*.

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The trustee or transferee in any such instrument named, if the instrument contains the words *with power of sale*, shall have power to deal with the land as the owner thereof; and a bona fide purchaser, mortgagee, or lessee is not bound to inquire into or determine whether or not the acts of such trustee are in accordance with the terms and conditions of the trust. When such power is conferred, the registrar shall note upon the certificate and duplicate thereof the words *with power of sale*.

SOURCE: CC §1157.66.

§ 29169. Power of Trustee Under Instrument Not Containing Words *With Power of Sale*.

If, however, such instrument does not contain the words *with power of sale*, such trustee shall have no power to sell or otherwise deal with the land without an order of the court so to do, duly given and made, a certified copy of which order shall be filed with the registrar, and a memorial thereof entered upon the certificate of title, which shall be conclusive evidence as against all persons that the authority of such trustee was duly exercised in accordance with the true intent and meaning of the trust, condition, or limitation.

SOURCE: CC §1157.67.

§ 29170. Power of Trustee Under Will Admitted to Probate.

A trustee under any will admitted to probate, unless such power shall have been expressly withheld by the terms of such will, shall have power to deal with any registered land held by him in trust as fully in every respect as if such lands belonged to him individually.

SOURCE: CC §1157.68.

§ 29171. Change in Status of Registered Land by Reason of pendency of Probate, Insolvency, or Equity Proceedings.

The distribution, transfer, leasing, mortgaging, or other change in the status of the title of registered land that is within the jurisdiction of the Superior Court by reason of pendency of probate or insolvency proceedings shall be made under the same conditions and limitations as now or hereafter provided by the law of Guam.

SOURCE: CC §1157.69. *Island* changed to *Superior* Court pursuant to P.L. 12-85.

§ 29172. Order of Court in Making Change in Status of Registered Land.

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The court in its order or decree making such distribution, transfer, leasing, mortgaging, or other change in the status of the title of registered land, shall direct the registrar to issue a certificate of title, or to note a memorial of transaction, as the case may require, in accordance with such order or decree.

SOURCE: CC §1157.70.

§ 29173. Duty of Executor, Assignee, Receiver, or Other Person Acting Under Direction of Court.

The executor, administrator, assignee, receiver, or other person acting under the direction of said court, shall file with the registrar a certified copy of such order or decree, also the deed, lease, mortgage, or other instrument executed in accordance with such order or decree, and also a certified copy of the order or decree confirming such sale, lease mortgage, or other transaction when such confirmation is required by law.

SOURCE: CC §1157.71.

§ 29174. Sales by Executors, Trustees in Bankruptcy or Assignees in Insolvency.

Executors, trustees in bankruptcy, administrators, and assignees in insolvency shall have no power of sale of lands registered in their names as such without an order or court obtained for that purpose. Before any certificate can be issued to the purchaser, such sales shall be reported for confirmation to the court under whose authority such executor, administrator, or assignee is acting, and if confirmed a duly certified copy of the order of confirmation shall be filed in the office of the registrar, and a memorial thereof entered upon certificate of title. Upon the filing of the certified copy of confirmation and entry of such memorial, the registrar shall issue a certificate to the purchaser at such sale, which certificate, in addition to the usual contents thereof, shall refer to the said order of confirmation. Such order of confirmation shall be conclusive evidence that the sale was in all respects conducted in accordance with the law, and the purchaser shall not be bound to inquire into the regularity of the proceedings, or power to make such sale.

SOURCE: CC §1157.72.

§ 29175. Proceeding Where Testator Has by Will Provided That Executor Shall Have Power of Sale.

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If a testator, by his will, has provided that the executor thereof shall have power of sale of real estate, the court shall direct the registrar to register the words *with power of sale*, in respect the land of the deceased, and such executor shall have power to sell such land without an order of the court so to do, but such sales must be confirmed by the court in the manner now or hereafter provided by law and a duly certified copy of the order of such confirmation shall be filed with the registrar before any certificate of title can be issued to the purchaser of such land.

SOURCE: CC §1157.73.

§ 29176. Certificate of Title or Memorial Conclusive.

Upon the filing of such confirmation with the registrar the latter shall issue the certificate of title, or note the memorial as the case may require; and such certificate of title or memorial noted shall be conclusive evidence in favor of all persons thereafter depending thereon in good faith.

SOURCE: CC §1157.74.

§ 29177. Proceedings on Sale of Registered Land for Taxes or Assessments.

A purchaser of registered land sold for any tax or assessment, shall, within five (5) days after such purchase, file in the office of the registrar a written notice of such purchase, thereupon the registrar shall enter a memorial thereof upon the certificate of title, and shall mail to each person named in the certificate, and in the memorials thereon, a copy of said notice. Unless such notice is filed as herein provided, the land shall be forever released from the effect of such sale, and no deed shall be issued in pursuance thereof.

SOURCE: CC §1157.76.

§ 29178. Tax Deed: Registration: Effect: Application for Decree Showing Title.

A tax deed of registered land, or of any estate or interest therein, issued in pursuance of any sale for a tax or assessment made after the taking effect of this Law, may be presented by the holder thereof to the registrar, who shall thereupon enter upon the register a memorial of such deed; but such deed, unless the same shall have been issued to the government, shall have only the effect of an agreement for the transfer of the title, and before any certificate of title shall be issued for the land described in such deed, the

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holder thereof must file with the clerk of court an application for a decree showing the title to said land to be vested in him.

SOURCE: CC §1157.76.

§ 29179. Same: Notification of Persons Interested on Application for Deed and Proceedings on.

All persons appearing upon the register to be interested in said land, and also the person who appears by the tax collector's books to have paid the tax or assessment last paid before the sale on which the deed is issued, shall be notified; and any person claiming any interest in the land may, upon the hearing of such application, show, as cause why a certificate of title should not issue to the holder of said deed, any fact that might be shown in law or in equity on his behalf to set aside such tax deed, and the applicant shall be required to show affirmatively that all the requirements of the statute to entitle him to a deed have been complied with.

SOURCE: CC §1157.77.

§ 29180. Hearing and Decree Showing Conditions of Title: Issuance of Certificate.

Such application shall be heard by the court, which shall render a decree showing the condition of the title to such land, and who is the owner thereof, and upon presentation to, of a duly certified copy of such decree, the registrar shall issue a certificate for a said land in accordance with the terms and conditions of said decree.

SOURCE: CC §1157.78.

§ 29181. Service of Notice Required by § 29179: Proof of Service and Publication.

The notice required by § 29179 shall be served upon persons interested in the manner provided in this Law for the service of notice of applications for original registrations. Proof of such service and publication must be made in the manner now or hereafter required by the laws of Guam.

SOURCE: CC §1157.79.

§ 29182. Redemption From Tax Sale: Cancellation of Memorial of Sale.

Upon presentation to him of a certificate of redemption from any sale, the registrar shall cancel the memorial of said sale upon the certificate of title.

SOURCE: CC §1157.80.

§ 29183. Proof in Proceedings for Partition of Registered Land.

In proceedings for partition of registered land, proof must be made that all persons, shown by the register of title to be interested in the land, have been made parties to such proceedings.

SOURCE: CC §1157.81.

§ 29184. Proceedings on Confirmation of Report of Referees Setting Off Registered Land in Partition Proceedings.

On confirmation of the report of the referees setting off registered lands in proceedings for partition, it shall be the duty of the parties to whom the lands are allotted to cause a certified copy of the judgment or decree to be filed with the registrar. Thereupon the registrar shall transfer the same upon the register, and issue certificates of title to the person entitled thereto, as shown by said decree.

SOURCE: CC §1157.82.

§ 29185. Proceedings Where Court Orders Sale of Land in Proceedings for Partition.

Whenever, in proceedings for partition of registered land, the court shall order a sale of such land, and the same is sold under such order, the purchaser shall file with the registrar a certified copy of the order confirming sale, that the terms of the sale have been complied with. Thereupon, the registrar shall transfer said land upon the register and issue a certificate of title to the purchaser therefor.

SOURCE: CC §1157.83.

§ 29186. Mortgage or Encumbrance by Tenant in Common Where Interest Set Off in Severalty.

When a tenant in common has given any mortgage, or granted any other lien or interest upon his undivided interest, and the same is set off in severalty in proceedings in partition, such mortgage, lien, or other interest shall attach only to the lands so set off, and the registrar shall note the same upon a new register of title, and a new certificate of title, and shall endorse a memorandum of the partition upon the instrument creating such lien, mortgage or other interest if the same be on file in his office, before a new certificate of title shall be issued therefor.

§ 29187. Proceedings Where Registered Land Sold Under Execution or Order.

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Whenever registered land shall be sold to satisfy any judgment decree, or order of court, the purchaser shall file with the registrar a duly certified copy of the order of sale, or of the order confirming such sale, when the same needs to be confirmed by the court and also the certificate, if any, of the officer making the sale that the terms of sale have been complied with, and thereupon the registrar shall transfer the land to the purchaser and issue a new certificate of title therefor to said purchaser.

SOURCE: CC §1157.85.

§ 29188. Action Affecting Registered Land Not Notice Until Notice of Pendency Filed with Registrar.

No suit, bill, or proceeding at law or in equity for any purpose whatever, affecting registered land, or any estate, or interest therein, or any charge upon the same, shall be deemed to be *lis pendens* or notice to any person dealing with the same until notice of the pendency of such suit, bill, or proceeding shall be filed with the registrar and a memorial thereof entered by him upon the register of the last certificate of title to be affected; provided, however, this Section shall *not* apply to attachment proceedings when the officer making the levy shall file his certificate as hereinafter provided. Nothing in this Section shall be deemed to limit, modify or invalidate any mechanic lien or mechanic lien rights afforded under Guam's mechanic lien laws.

SOURCE: CC §1157.86. Amended by P.L. 24-323:3.

§ 29189. Proceedings Where Action Affecting Registered Land Dismissed or Otherwise Disposed of.

When any suit, bill or proceeding affecting registered lands has been dismissed or otherwise disposed of, or any judgment, decree or order has been satisfied, released, reversed, or modified, or any levy or execution, attachment or other process has been released, discharged, or otherwise disposed of, it shall be the duty of the clerk of the court in which such proceedings were pending, or had, as the case may be, forthwith, under the seal of the court, to certify to and file with the registrar, an instrument showing such discharge on the register. The costs of such certificate and memorial shall be taxed as other costs in the case.

SOURCE: CC §1157.87.

§ 29190. Judgment Not a Lien Upon Registered Land Until Certified Copy Filed with Registrar.

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No judgement, or decree, or order of any court shall be a lien upon or in anywise affect registered land, or any estate or interest therein, until a certified copy of such judgment, decree, or order, under the hand and official seal of the clerk of the court in which the same is of record, is filed in the office of the registrar, and a memorial of the same is entered upon the register of the last certificate of title to be affected.

SOURCE: CC §1157.88.

§ 29191. Certificate to be Filed with Registrar Where Land Levied Upon.

Whenever registered land is levied upon by virtue of any writ of attachment, execution, or other process, it shall be the duty of the officer making such levy forthwith to file with the registrar a certificate of the fact of such levy, a memorial of which shall be entered upon the register; and no lien shall arise by reason of such levy until the filing of such certificate and the entry in the register of such memorial, any notice thereof, actual or constructive, to the contrary notwithstanding.

SOURCE: CC §1157.89.

§ 29192. Lien Does Not Affect Title to Registered Land Until Memorial Entered.

No statutory or other lien shall be deemed to affect the title to registered land until after a memorial thereof is entered upon the register, as herein provided.

SOURCE: CC §1157.90.

§ 29193. Certificate of Dismissal or Other Disposition of Action Authorizes Registrar to Cancel Memorial.

The filing in the registrar's office of a certificate of the clerk of the court in which any suit, bill, or proceeding shall have been pending or any judgment decree is of record, that such suit, bill, or proceeding has been dismissed or otherwise disposed of, or the judgment, decree, or order has been satisfied, released, reversed, or overruled, or by any other officer that the levy of any execution, attachment, or other process certified by him has been released, discharged, or otherwise disposed of, shall be sufficient to authorize the registrar to cancel or otherwise treat the memorial of such suit, bill, proceeding, judgment, decree, or levy, according to the purport of such certificate.

SOURCE: CC §1157.91.

§ 29194. Corrections, Alterations, or Erasures: How Only Made.

After a title has been registered and a certificate issued therefor, or after a memorandum, notation, or memorial has been made on the Register of Titles and has been attested, no correction, alteration, or erasure shall be made therein or thereof, except in the manner herein provided.

SOURCE: CC §1157.92.

COURT DECISIONS: The Court of Appeals, held that Guam statute establishing procedure for correction of mistake in certificate of title did not permit parties to relitigate boundary dispute even if maps and description submitted in prior registration proceeding were inaccurate. *Govt. of Guam For The Amendment of Certificates of Title To Lots Nos. 453, 450 and 450-1, Agat, Guam. v. Cruz et al.*, 9th Cir., 3/14/89, 869 F.2d 1326.

§ 29195. Proceedings on Termination of Registered Interests: Costs.

A registered owner or other person in interest or the registrar, may at any time apply by petition to the court, upon the ground that registered interests of any description, whether vested, contingent, expectant, or inchoate, have terminated and ceased, or that new interests have arisen or been created which do not appear upon the certificates or that any certificate or memorial has been made, entered, endorsed, issued or cancelled by mistake, or that the name of any person on the certificate has been changed by divorce, adoption, or other than by marriage as provided for in § 29129 of this Code, or that an owner, registered as married, has ceased to be such, or that a corporation which owned registered land has been dissolved and has not legally conveyed the same after its dissolution, or upon any other reasonable ground, for an order summoning all persons registered as interested in the lands to which such certificate or memorial relates, to appear at an appointed time and place and produce their duplicate certificates and show cause why such omission or mistake or change or alteration should not be corrected or made. The registrar shall, upon receiving notice of such petition, enter a memorial of such application under the certificate of title affected.

If at the time and place appointed all such persons appear and consent, the court may order the entry of a new certificate, the entry for cancellation of a memorandum upon a certificate, or grant any other relief upon such terms, requiring security if necessary, as it may consider proper.

If such persons, or any of them, fail to appear or do not consent, the court may proceed to hear testimony and if it appears to the satisfaction of the court that the relief as petitioned for should be granted, it shall order and

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direct the registrar to make such corrections or modifications on such certificates or memorials as may be necessary.

A certified copy of such order of the court shall be filed in the registrar's office before any such corrections or modifications shall be entered or made.

Costs. When such action has been caused by the fault or neglect of the registrar, the costs of such proceedings shall be paid by the registrar out of the fees collected by the registrar under the provision of this Law; if by the fault of the person registered as interested in such land, by such person.

The provisions of this section shall not give the court authority to open the original decree of registration and nothing shall be done or ordered by the court which shall impair the title or other interest of the purchaser who holds a certificate for value and in good faith, or his heirs or assigns without his or their written consent.

SOURCE: CC §1157.93.

§ 29196. Reference to Court Where Registrar in Doubt or Parties Fail to Agree.

When the registrar is in doubt or when the parties in interest fail to agree as to the proper memorial to be made in respect of any deed, mortgage, or other voluntary instrument presented for registration, the question shall be referred to the court for decision, either on the certificate of the registrar stating the question, or upon the suggestion in writing of any party or parties in interest; and the court, after due notice to all parties in interest and a hearing, if hearing, if necessary or proper, shall issue an order prescribing the form of the memorial to be made by the registrar, who shall make the memorial accordingly.

SOURCE: CC §1157.94.

§ 29197. Fees for Services.

Fees for registration and services shall be established by the registrar and approved by the Governor of Guam and all fees collected by the registrar shall be paid by him, between the first and fifth days of the month following receipt thereof, to the Department of Administration of the government of Guam.

SOURCE: CC §1157.95.

§ 29198. Exercise of Right of Eminent Domain.

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Nothing in this Law shall be construed to in anywise affect or modify the exercise of the right of eminent domain.

When any suit or proceeding shall have been brought in the exercise of such right for the taking of registered land, or any interest therein, or to test the validity of any such taking or to ascertain and establish the amount of damage by reason of any such taking, it shall be the duty of both parties to the proceeding to see that a certified copy of the judgment or decree therein is duly filed and a memorial thereof entered upon the register; but, in the case of an assessment of damages, no such memorial shall be entered by the registrar until such damages have been paid, in which event however, that the deposit with the clerk of the Superior Court, of such the register shall also show the payment of such damages: provided, damages, shall be deemed a payment thereof, and in such case the clerk shall forthwith file with the registrar a certificate of such deposit, and thereupon a memorial thereof shall be entered upon the register. Upon the filing of the certified copy of the order or decree of the court and the payment of damages, the registrar shall note on the Register of Titles of the owners whose lands have been appropriated a description of the land so appropriated and shall register in the name of the person, corporation, or other body entitled thereto, the title of the land taken, and issue a certificate therefor.

SOURCE: CC §1157.96.

§ 29199. Action for Partition by Owner of Undivided Interest.

An owner of an undivided interest in registered lands may bring an action for the partition thereof. A notice of such action shall, at the time for the commencement thereof, be filed with the registrar and a memorial entered by him upon the register. A certified copy of any judgment or decree rendered in pursuance of such action shall be filed with the registrar, who shall thereupon issue a new certificate in accordance therewith.

SOURCE: CC §1157.97.

§ 29200. Rights and Remedies of Defrauded Person.

In the case of fraud, any person defrauded shall have all rights and remedies that he would have had if the lands were not under the provisions of this Law: provided, that nothing contained in this section shall affect the title of a registered owner who has taken bona fide for a valuable consideration, or of any person bona fide claiming through or under him.

SOURCE: CC §1157.98.

§ 29201. Clerk to Notify Registrar in Case of Appeal.

In the case of an appeal from any proceeding under this Law, or from any judgment, order or decree affecting registered lands, the clerk of the court in which the notice of appeal is filed shall forthwith notify the registrar thereof, and thereupon the registrar shall enter upon the register a memorial of such appeal.

SOURCE: CC §1157.99.

§ 29202. How Documents Relating to Registered Lands to be Prepared.

It shall be the duty of the registrar to require that all documents offered for filing concerning registered land, shall be made out with a view to permanency. The registrar may refuse to accept any document for filing which in his judgment is wholly or partially written, made out, or filled in with inferior ink or faded typewriter ribbon and likely to fade quickly, and may require such documents to be redrawn in India or indelible ink to insure permanency. Registrars must in every instance in making out a new certificate of title, memorials, or entries of any kind in connection with registered land, use India ink for handwriting and indelible ink for typewriter or rubber stamps.

SOURCE: CC §1157.100.

§ 29203. Deputies: Appointment, Number, Duties, and Compensation.

Deputies may be appointed by the Director of Land Management. Deputies shall be in such number as may be necessary to carry out the work program involved at any particular time. Compensation shall be the subject of a separate agreement between the government of Guam and the individual deputy employed, and shall be based on the currently prevailing wage scales for the particular type of work done by an individual deputy.

SOURCE: CC §1157.101.

NOTE: §§1157.102, 1157.103 and 1157.104 of the former Civil Code, concerning offenses against the statute and penalties therefor, were repealed by P.L. 13-187:7, 8 and 9 respectively.

§ 29204. Rules and Regulations: Documents Sent by Mail.

Registrars shall not make any rules or regulations that work a hardship or inconvenience upon owners or others desiring to avail themselves of the provisions of this Chapter, who live at a distance from the office of the registrar and shall in writing consent to accept notice of all proceedings, of which notice is required by mail, and in such cases registrars shall assist

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those who desire to use the mails in connection with registered lands in every way possible. Such documents as are sent by mail shall be entirely at the risk of the owner and if lost, the entire expense of replacing same shall be borne by the owner.

SOURCE: CC §1157.105.

§ 29205. Law to be Liberally Construed.

This Law shall be construed liberally so far as may be necessary for the purpose of effecting its general intent.

SOURCE: CC §1157.106.

§ 29206. Jurisdiction of Island Court Confirmed: Validity of Prior Decrees.

The jurisdiction of the Island Court to issue decrees ordering the registration of land titles from and after August 9, 1951, is hereby confirmed, and any other provision of law to the contrary notwithstanding; and all such decrees issued by the Island Court from and after said date are hereby declared to be valid insofar as the jurisdiction of the Island Court to hear and determine such matters is concerned.

SOURCE: §1157.108 CC. *Island* Court not changed to *Superior* Court pursuant to P.L. 12-85 because this section was enacted specifically to deal with a problem involving the *Island Court of Guam* as that court existed at the time of enactment of this section, which was before the creation of the Superior Court of Guam. This section has no bearing on the jurisdiction of the Superior Court of Guam, and the problems addressed by this section are dealt with, as to prospective actions, elsewhere in law.
